



Shoreland Zoning Newsletter



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Share the News

Please distribute to the Select Board, Planning Board, Appeals Board, and the Code Enforcement Officer.
We're online! New and old Newsletters are available at: <http://www.maine.gov/dep/blwq/docstand/szpage.htm#publicationssz>

About the News

For over 15 years, the Shoreland Zoning Newsletter has been helping town officials better understand common issues regarding shoreland zoning administration and enforcement. Your feedback is always welcome. Submit comments and topics for Your Questions to stephenie.maclagan@maine.gov

Adopted amendments submitted yet?

July 1st was the deadline for adopting required shoreland zoning amendments. Amendments are not effective until given final approval from the Department, even if a draft was accepted by the Shoreland Zoning Unit. Please make sure that adopted amendments have been submitted.

Nothing adopted? Whether your municipality is expecting a State-Imposed Ordinance (SIO) or is still working on adopting its own, we want to hear from you. If you have not talked to us about updates, please give us a call. Our contact information is on pg 4.

Amendments Received

Abbot	Carrabasset	Freeport	Knox	Mount	Oxford	Saint George	Sweden
Addison	Valley	Friendship	Lamoine	Vernon	Palermo	Sanford	Thomaston
Anson	Casco	Frenchville	Lebanon	Naples	Palmyra	Scarborough	Topsham
Appleton	Chebeague	Fryeburg	Leeds	New	Paris	Searsmont	Tremont
Arrowsic	Island	Georgetown	Liberty	Limerick	Parkman	Searsport	Trenton
Beals	Cherryfield	Gouldsboro	Limington	New Sharon	Parsonsfield	Sedgwick	Turner
Beddington	Clinton	Grand Isle	Lincolnton	New Sweden	Penobscot	Shapleigh	Union
Belmont	Corinna	Greenbush	Lisbon	Newcastle	Peru	Sherman	Upton
Berwick	Cumberland	Greene	Litchfield	Newry	Pittston	Shirley	Van Buren
Bingham	Cushing	Greenville	Littleton	North	Phippsburg	Skowhegan	Vassalboro
Blaine	Dayton	Greenwood	Livermore	Berwick	Poland	Smithfield	Verona Island
Blue Hill	Deer Isle	Hancock	Lovell	North	Porter	Sorrento	Vienna
Boothbay	Detroit	Hanover	Lyman	Yarmouth	Portland	South	Waltham
Boothbay Harbor	Dexter	Harpwell	Madawaska	Norridge-wock	Prospect	Southport	Westbrook
Bowdoinham	Foxcroft	Harrison	Madison	Northfield	Rangeley	Southwest	Westfield
Bowerbank	Dresden	Hartford	Mariaville	Northport	Richmond	Harbor	Westport
Bradley	Dyer Brook	Hiram	Mars Hill	Oakland	Ripley	Standish	Willimantic
Bremant	Eagle Lake	Holden	Mechanic Falls	Ogunquit	Rockport	Starks	Wilton
Bridgeton	Eddington	Houlton	Medford	Old Town	Rome Bluffs	Stetson	Windham
Bristol	Edgecomb	Hudson	Mexico	Orient	Rome	Stockton	Windsor
Brooklin	Eliot	Islesboro	Milbridge	Orland	Sabattus	Spring	Winslow
Brooks	Ellsworth	Jackman	Milford	Orono	Saco	Strong	Woolwich
Brooksville	Eustis	Jackson	Minot	Owls Head	Saint Agatha	Sullivan	Yarmouth
Brownfield	Falmouth	Jay	Monmouth		Saint Albans	Sumner	York
Brownville	Fayette	Jefferson	Monson				
Buckfield	Fort Kent	Kennebunk	Montville				
Burnham	Frankfort	Kennebunkport	Moscow				
Bustins Island	Franklin	Kingfield					
Carratunk	Freedom						

Not on the list? Be sure that amendments were submitted; DEP review may not have been completed when this list was created.

Towns awarded \$145,000 total in violations

In Town of Cushing vs Cushing Holdings LLC (2009), the Court granted the relief of \$137,000 in civil penalties that the Town of Cushing (Town) requested for the clearing violation created by Cushing Holdings LLC (Cushing Holdings). Cushing Holdings created openings

in the canopy of more than 250 square feet, a standard provision of shoreland zoning ordinances. Evidence showed that most of the trees that were removed were healthy. Much of the evidence for this case was in the form of photographs. Remember the importance

Continues on PG 2

New coastal bluff setback measurement

For coastal municipalities that have adopted the 2006 Guidelines amendments, a new provision requires that the setback be taken from the top of a coastal bluff that has been identified as unstable or highly unstable, instead of the upland edge of the coastal wetland.

Unstable and highly unstable bluffs are not suitable for development. The potential for bluff failure causes a hazard to buildings. At the end of June, three buildings in Stockton Springs were impacted by a bluff landslide. It's hard to forget the 1996 Rockland bluff failure, which destroyed two homes and cost over \$750,000 to stabilize the area.

The Maine Geological Survey Coastal Bluff Maps are used to determine stability. Maps were mailed to the municipalities. Maps can also be found at www.maine.gov/doc/nrimc/mgs/pubs/online/bluffs/

bluffs.htm. The base maps are USGS quadrangles and sometimes more than one map is used to cover a single municipality. Search names near to your municipality to find maps for your coastal shorelines.

A few municipalities have not yet been mapped, including those downeast of Harrington. Municipalities between Harrington and Jonesboro are expected to be mapped by the end of this year. The rest of Washington County may be mapped at a later date dependent on funding.

If the applicant disagrees as to the specific location of an unstable or highly unstable bluff, or where the top of the bluff is located, the applicant may employ a professional to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals. 🐟

Variance requests must be submitted to DEP for comment

This is a reminder to municipalities that the Shoreland Zoning Act requires that variance requests be submitted to the Department at least 20 days before action is taken by the Board of Appeals.

by the applicant, to the Department for comment. Comments received prior to action by the Board of Appeals must be made part of the record and considered by the Board before action is taken.

The amended Guidelines contain a provision that makes this statutory requirement more perceptible.

The Shoreland Zoning Unit would like to kindly remind municipal officials to submit the application, and all supporting information supplied

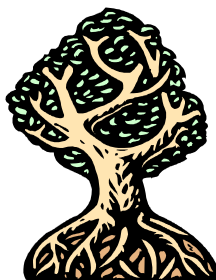
Variance requests must be submitted to Department at least 20 days before action is taken .

The Shoreland Zoning Unit hopes this will be another opportunity for municipal officials to learn about the administration of their shoreland zoning ordinance, and to ask any questions before the variance request is heard by the Board of Appeals. 🐟

Violations continued from page 1

of taking photos when investigating complaints.

Since the trees removed were so large, the Court ordered planting of twice as many trees as were removed. The density ordered is consistent with the Department policy of one tree per 80 square feet of area. Municipalities can seek similar corrective actions in



similar situations.

In Town of Lebanon vs Wright, the Court supported the Town in requiring planting of 35 trees and 30 shrubs to remedy a clearing violation. Wright was also ordered to pay a \$3,000 fine.

The Court ordered the defendants in both cases to pay the Towns' attorney costs. When filing in court, remember the ability to request such relief. 🐟

CEO certification and training

Brianne Hasty is now overseeing the code enforcement program at the State Planning Office. The program will continue to be scaled back due to budget cuts.

The focus will be on basic training and the number of trainings will be reduced. Technical assistance will not be provided directly; however, the SPO can send you to where an answer could be found.

Certification will be effective for 6 years now. The SPO will be mailing out new certification cards with the new expiration dates. Any CEO who has been hired since January 2009 should contact Brianne about his/her status. Brianne can be contacted at 207-287-8058.



The Shoreland Zoning Unit plans to start its shoreland zoning trainings again soon. We did not hold trainings this summer due to the ordinance updating process. Long-term, we intend to separate basic training from advanced training, to better provide you with the information you need. Stay tuned for when trainings will begin. In the mean time, please check out other available trainings on pg 4. 🐸

Legislative Update

Starting January 2013, an Act to Protect Lake Quality will require that a contractor certified in soil erosion and sedimentation control oversee work in the shoreland zone that results in soil disturbance or soil exposure.

Now is the time to get certified!

Currently there are not enough certified contractors in the state to cover the amount of permitted projects. Please spread the word to local contractors that work in the shoreland zone will require oversight by a contractor certified in erosion and sedimentation control.

The Department would like to work with municipalities in setting up day-long certification training sessions locally. Please contact Bill Laflamme at 287-7726 with questions or to schedule sessions. 🐸

Spread the word to local contractors that work in the shoreland zone requires oversight.

Your Questions

Q: What is 20% slope and why protect such areas?

A: The Guidelines for Municipal Shoreland Zoning Ordinances requires that areas of 2 or more acres of sustained slopes of 20% or greater are designated Resource Protection Districts (RP). A 20% slope is equivalent to 11.3 degrees or a 5 horizontal to 1 vertical (5:1) ratio. A flat area would be 0% slope, 0 degrees, and 0:1 ratio. Most ordinances refer to steep areas in percent slope. Areas of 20% slope or greater are designated RP to protect against accelerated erosion and runoff, which helps maintain water quality, safety, and shoreline character—purposes of shoreland zoning ordinances. Soil is the number one pollutant to Maine's water bodies and wetlands. Soil carries with it phosphorus and other contaminants. Phosphorus feeds algae causing algal blooms that destroy the color and clarity of the water, not to mention fish habitat, which in turns affects waterfront property values, recreational fishing and swimming. Also, development on steep slopes usually has a greater visual impact from the water than flatter areas.

Other areas of severe erosion are also protected, such as bank erosion and undercutting along rivers and unstable coastal bluff areas. The protection comes with the designation of these areas as Resource Protection Districts, which allow limited land uses and require additional standards than other Districts. 🐸

Notes from the Shoreland Zoning Unit

Upcoming Trainings.

Shoreland Zoning Unit trainings will begin again in November; we also hope you will take advantage of these trainings. Registration may be required; use the contact information listed under the training titles below.

MMA Planning and Appeals Boards Training

www.memun.org

Sept. 22 Paris-South Paris Fire Station

Oct. 15 Skowhegan Community Center

DEP Erosion Control Practices Training

207-287-7726

Oct. 15 Skowhegan Community Center

Oct. 22 Boothbay Fire Station

Nov. 20 Ellsworth City Hall

Dec. 1 Blue Hill Town Hall

Dec. 3 Bangor Spectacular Events

Dec. 7 Bangor Spectacular Events

DEP Low Impact Development Training

Dec. 2 Portland Verrillo's

Field visits limited.

The Shoreland Zoning Unit is extremely busy reviewing adopted amendments, and will start creating state-imposed ordinances, maps, and associated Department Orders. We are declining many requests for site visits, meetings, and presentations. Remember to document site visits very well, so that when you find you do need help, you'll be able to seek help via email/mail. 🐢

Contact Us

Augusta

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